



February 10, 1999

Mr. James R. Raup
McGinnis, Lockridge & Kilgore
1300 Capitol Center
919 Congress Venue
Austin, Texas 78701

OR99-0405

Dear Mr. Raup:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 122170.

The Round Rock Independent School District received a request for the following information: the packet of information presented to the board, the file of a named individual, all appeals, complaints and grievances this school year, all approvals for distribution at the Round Rock High School this year, and all suspensions at Round Rock High School this year. You ask whether one letter dated August 21, 1998 from Mr. Mike Jolly to Mr. Tom Phillips is excepted from disclosure by sections 552.101 and 552.102 of the Government Code. You have submitted the letter for our review. Because you do not seek a decision concerning the remaining requested information, we presume that this information has been released to the requestor. Gov't Code §§ 552.221, .301.

Section 552.102 excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a). In *Hubert v. Harte-Hanks Texas Newspapers*, 652 S.W.2d 546 (Tex. App.—Austin 1983, writ ref'd n.r.e.), the court ruled that the test to be applied to information claimed to be protected under section 552.102 is the same as the test formulated by the Texas Supreme Court in *Industrial Foundation* for information claimed to be protected under the doctrine of common-law privacy as incorporated by section 552.101 of the act. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by common-law privacy and excepts from disclosure private facts about an individual. *Id.* Therefore, information may be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate

public interest in its disclosure. *Id.* at 685; Open Records Decision No. 611 at 1 (1992). We do not believe that the letter you have submitted is protected from disclosure by a right of privacy. Open Records Decision Nos. 470 (1987), 455 (1987). The submitted letter must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Don Ballard", written in a cursive style.

Don Ballard
Assistant Attorney General
Open Records Division

JDB\nc

Ref: ID# 122170

Enclosures: Submitted document

cc: Mr. Rick Ybarra
911 North Main
Taylor, Texas 76574
(w/o enclosures)